

identity information to
prevent clearly unwarranted
invasion of personal privacy



U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090

U.S. Citizenship
and Immigration
Services

PUBLIC COPY

B7

FILE: WAC 09 029 50700 Office: CALIFORNIA SERVICE CENTER Date: **MAY 21 2010**

IN RE: Petitioner: [REDACTED]

PETITION: Immigrant Petition by Alien Entrepreneur Pursuant to Section 203(b)(5) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(5)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner seeks classification as an alien entrepreneur pursuant to section 203(b)(5) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(5), based on an investment in [REDACTED]. The director determined that the petitioner had failed to demonstrate the creation of at least ten full-time jobs for qualifying employees.

On appeal, counsel stated that he would submit a brief and/or evidence to the Administrative Appeals Office (AAO) within 30 days. The only assertion of error on the Form I-290B Notice of Appeal or Motion is that the director erred in issuing the request for additional evidence to counsel instead of the petitioner directly. We note that counsel responded to that notice and that the response was considered by the director. Counsel does not explain how the petitioner would have been better able to respond to the notice if mailed directly to him rather than the legal representative retained by the petitioner for this matter. Regardless, the regulation at 8 C.F.R. § 292.5(a) states that whenever a person is required by any provision to be given notice, such notice shall be given to the attorney or representative of record, which in this case was counsel. Thus, the director did not err in issuing the request for evidence to counsel.

Counsel dated the appeal October 15, 2009. As of this date, approximately seven months later, the AAO has received nothing further.

As stated in 8 C.F.R. § 103.3(a)(1)(v), an appeal shall be summarily dismissed if the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

Counsel here has not specifically addressed the reasons stated for denial and has not provided any additional evidence. The appeal must therefore be summarily dismissed.

ORDER: The appeal is dismissed.